

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:06CR123
)	
v.)	
)	
JAMAAL A. MCNEIL,)	ORDER
)	
Defendant.)	
)	

Before the court is defendant's motions for judgment of acquittal, motions for a new trial, and a mistrial, and defendant's motion to arrest of judgment, Filing Nos. 108, 109, 110, and 111. Under Federal Rule of Criminal Procedure 29, motion for judgment of acquittal, courts view the evidence in the light most favorable to the jury's verdict and "draw all reasonable inferences in the government's favor, upholding the conviction so long as there is an interpretation of the evidence that would allow a reasonable-minded jury to find the defendant guilty beyond a reasonable doubt." *United States v. McAtee*, 2007 U.S. App. LEXIS 8370, *11 (8th Cir. 2007) (internal quotations and brackets and citation omitted). The court considers a motion for judgment of acquittal with limited latitude and may not weigh the evidence or assess witnesses' credibility. *United States v. Johnson*, 474 F.3d 1044, 1048 (8th Cir. 2007). Under Rule 33, "the court may vacate any judgment and grant a new trial if the interest of justice so requires." Fed. R. Crim. P. 33. The court has great discretion when evaluating a motion for a new trial, but "[u]nless the district court ultimately determines that a miscarriage of justice will occur, the jury's verdict must be allowed to stand." *United States v. Campos*, 306 F.3d 577, 580 (8th Cir. 2002). "A motion for arrest of judgment under Rule 34 may only be raised and granted on grounds that (1)

the indictment or information does not charge an offense; or (2) that the court was without jurisdiction of the offense which was charged.” *United States v. Fincher*, 2007 U.S. Dist. LEXIS 9653, *3 (D. Ark. 2007).

The court finds that sufficient evidence existed in this case that a reasonable-minded jury could find the defendant guilty beyond a reasonable doubt. The court finds that justice was served and accordingly, the court will not vacate the jury’s verdict or order a new trial. Finally, the court does not find that the indictment failed to charge an offense or that the court was without jurisdiction. Accordingly, defendant’s motions, Filing Nos. 108, 109, 110, and 111 are denied.

SO ORDERED.

DATED this 7th day of May, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
Chief U.S. District Judge